

## REMARKS

Claims 1-43 remain pending in the present application. No claims have been amended or cancelled. Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the following remarks, which follow the order set forth in the Office Action (“the Action”).

### I. Objections to the Drawings

The drawings were objected to under 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims. The Action refers generally to the “side walls of the pyramid ending with an apron which is partially buried in the ground,” and asserts that the apron must be shown or the feature canceled from the claim. *Office Action mailed June 6, 2007, page 2*. Applicants traverse the objection to the drawings. Applicants point to Figure 16 and the specification, for example, on page 15, lines 11-14, which states:

The trapezoidal walls 638, making up the sides of the trap, are set at 20-25 degrees to the ground surface, making up a truncated pyramid. The surfaces of the trapezoidal walls 638, below the rigid square frame 639 form an apron 640, which is partially buried in the ground 643.

Said section of the specification, for example, refers to Fig. 16:

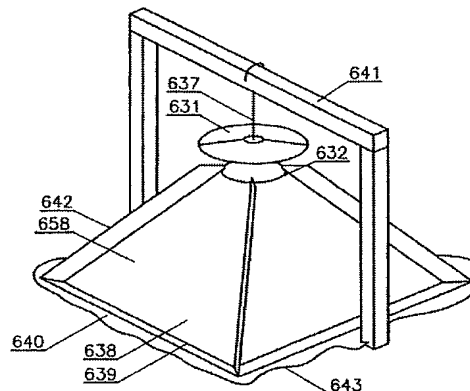


Fig.16

The claimed feature, apron (640) is depicted in Figure 16 by its callout number, which is detailed in the specification. Thus, Applicants respectfully submit that the apron is shown in fulfillment of 37 CFR 1.83(a). Withdrawal of the objection to the drawings is respectfully requested.

## **II. Rejection under 35 U.S.C. 102(b) is traversed**

Claims 1-3, 13, 18, 19, 21, 41-43 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 19531981 A1 ("DE '1981). Applicants respectfully traverse. Each of the pending claims includes the limitation that the device separates captured pests from water and small debris.

DE '1981 discloses a trap including a catching part (1) an outlet opening (2), funnel (5), and container (6). *See Abstract*. A mesh is disclosed that is designed for selectively sorting pests by size, the mesh being positioned between the outlet opening (2), and container (6). *DE '1981; FIG. 1*. Pests and any other material of smaller size than the pests, including water, pass through the mesh and into the container.

The Action states that DE '1981 discloses:

[A]n insect trap having a catching part with an outlet opening and a container for storing caught pests connected to a device. DE '1981 shows a catching part 1 with an outlet opening 2, a container 6, and a device 5 for *separating the captured pests from water and small debris*. DE '1981 discloses a net attached to the top area of the funnel. . . .

In reference to claim 41, DE '1981 shows using a trap having a catching part, and a container for storing the captured insects with a device for *separating the captured insects from water and small debris* being placed along a path which caught insects move. The trap is hung with a bottom of the container for storing caught insects in a horizontal position.

*Office Action mailed June 6, 2007, page 3. (Emphasis added).*

DE '1981 does not disclose or teach a device capable of separating the captured pests from water and small debris. Rather, funnel (5), includes a "selective net" attached to the top portion of the funnel. *See Fig. 1; Abstract*. The selective net only discriminates with regard to pest size because its "mesh width depends on the size of the insects to be trapped."

*Abstract*. Therefore, the net attached to the top portion of the funnel is incapable of excluding water and similarly sized small debris from entering into the container. In contrast, the presently claimed device separates pests from water and small debris by allowing the water and small debris to exit the container while retaining the captured pests. For example, Fig. 3 of Applicant's specification illustrates a device where water and small debris is directed out of the container while the captured pests are contained. The DE '1981 device

that allows pests into the container along with water and small debris does not contain each limitation of the recited claim language of “a device for separating the captured pests from water and small debris.” As each and every element of claims 1 or 41 is not expressly or inherently disclosed in DE ‘1981, there can be no anticipation. Therefore, claims 2-3, 13, 18, 19, 21, 42, and 43, which depend directly or indirectly from claims 1 or 41, cannot be anticipated by DE ‘1981. Withdrawal of the rejection is respectfully requested.

### **III. Rejections under 35 U.S.C. 103(a) are traversed**

Claims 4-5, 6-7,8, 9, 11, 12, 14, 17, 20, and 22-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over DE ‘1981. Applicants respectfully traverse.

Claim 14 is directed to a trap of the present invention wherein the device for separating the captured pests from water and small debris is a mesh placed in openings made in sloping walls of a reducer. The Action acknowledges that the mesh (net) of DE ‘1981 is attached to the top area of the funnel, but asserts that “it would have been obvious to place the mesh in openings made in the sloping walls of the funnel or reducer since the function is the same.” *Office Action mailed June 6, 2007, page 4. (Emphasis added).* Applicants respectfully submit that the function of the mesh is not the same because one mesh traps pests while the other is specifically selected to allow pests to pass through.

Whether or not it may have been obvious to make the suggested modification of DE ‘1981 as stated in the Action, such a modification would not remedy the deficit of not separating the captured pests from water and small debris. DE ‘1981 discloses that the mesh is designed for selectively sorting pests by size, the mesh being positioned between catching part (1) and outlet opening (2). *Abstract; FIG. 1.* Therefore, pests must pass through the mesh, which would be understood by one of ordinary skill in the art to also allow water and small debris along with the captured pests to enter container (6). If the mesh in DE ‘1981 were to be repositioned as suggested in the Action, the pests would pass through the entire device. In contrast, the mesh of the present invention allows water and small debris to exit the container, or be diverted from entering container, such that the captured pests are separated from water and small debris. *See e.g., Applicant’s FIG. 3.* Therefore, the suggested modification of re-positioning the mesh cannot remedy the deficit in the cited art of not disclosing a device for separating captured pests from water and small debris as recited in the claim.

Likewise, the remaining rejections specific to claims 17, 20, 22, 26, 32, 33, 37, and 38, which the Action asserts are obvious modifications of the DE '1981 trap, would not remedy the deficit of not providing a device for separating the pests from water and small debris. Claims 4-5, 6-7, 8, 9, 11, and 12, lack a detailed explanation as to why they would be considered obvious in view of DE '1981. Nevertheless, for the reasons discussed above, this reference does not teach or reasonably suggest each and every limitation. Therefore, a *prima facie* case of obviousness has not been made. Applicants respectfully request that the rejection of claims 4-5, 6-7, 8, 9, 11, 12, 17, 20, 22, 26, 32, 33, 37, and 38 be withdrawn.

Claims 15-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over DE '1981 as applied to claim 1 above, and further in view of WO 02/098218 A1 ("WO '218). Applicants respectfully traverse.

The Action acknowledges that DE '1981 does not disclose a solution for trapping pests in the container. *Office Action mailed June 6, 2007, pages 5-6.* To remedy this deficit, the Action relies on the disclosure of WO '218. The Action states that WO '218 "shows a solution made from water, light and heavy alcohols, detergent and an attracting agent such as a pheromone." *Office Action mailed June 6, 2007, page 6.*

WO '218 discloses use of an attractant light source at or near the top surface of the device and a source of recirculating water to entrain and flush insects into a basket. *WO '218, page 7, lines 15-25.* Applicants note that WO '218 does not contain the terms "alcohol," "detergent," or "pheromone." Moreover, WO '218 teaches away from devices that use chemical attractants for reasons of safety. *WO '218, page 2, lines 16-19.*

In any event, the combination of DE '1981 with WO '218 cannot remedy the deficit of DE '1981, which does not disclose a device for separating the captured pests from water and small debris as recited in the claims. As each and every element is not disclosed or reasonably suggested in the combination of DE '1981 and WO '218, a *prima facie* case of obviousness has not been made. Withdrawal of the rejection is respectfully requested.

#### **IV. Allowable Subject Matter**

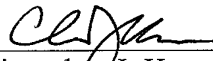
The Action states Claim 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants are appreciative of the acknowledgement of allowable subject matter.

For the foregoing reasons, withdrawal of the objections to the Figures and the rejections of claims 1-43 are respectfully requested. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

HUTCHISON LAW GROUP PLLC

Date: 11/06/2007

By:   
Christopher J. Knors  
Registration No. 45,569

P.O. Box 31686  
Raleigh, NC 27612  
+1.919.829.9600